

**PENGATURAN PEMBERIAN KEKEBALAN DAN HAK ISTIMEWA  
KEPADA PEJABAT NON-DIPLOMATIK MENURUT HUKUM  
INTERNASIONAL**

**(Studi tentang Kasus Pelanggaran Kekebalan Terhadap Gubernur Sutiyoso  
oleh Australia pada 2007)**

**ABSTRAK**

Pejabat non-diplomatik berhak atas kekebalan dan hak istimewa untuk menjamin terlaksananya tugas secara efisien. Pada 29 Mei 2007 di Sidney, Gubernur Sutiyoso sedang dalam kunjungan kerja berkaitan dengan penandatanganan nota kesepemahaman atau *Memorandum of Understanding* (MoU) pengaktifan kembali kerja sama provinsi kembar (*sister province*) antara Daerah Khusus Ibukota (DKI) Jakarta dengan Sidney. Sutiyoso didatangi oleh Australian Federal Police (AFP) dan diminta untuk menjadi saksi karena dianggap mengetahui dan ikut terlibat dalam kasus Balibo Five. Sutiyoso menolak permintaan tersebut dengan alasan bahwa ia berhak mendapatkan imunitas khusus yaitu imunitas atas pengadilan negara setempat.

Penelitian ini bertujuan untuk mengetahui pengaturan mengenai pemberian kekebalan dan hak istimewa kepada pejabat non-diplomatik menurut hukum internasional dan mengetahui serta menganalisis penerapan pemberian kekebalan dan hak istimewa pejabat non-diplomatik pada kasus pelanggaran kekebalan terhadap Gubernur Sutiyoso di Australia atas dugaan keterlibatan pada Peristiwa Balibo Five 1975. Metode pendekatan yang digunakan dalam penelitian ini yaitu yuridis normatif. Semua data dalam penelitian ini berasal dari data sekunder, dengan metode pengumpulan data berdasarkan studi kepustakaan yang disusun secara sistematis dan dianalisis dengan metode normatif kualitatif.

Hasil penelitian menunjukkan bahwa pengaturan kekebalan dan hak istimewa pejabat non-diplomatik dapat ditemukan antara lain dalam Konvensi New York 1969 tentang Misi Khusus. Kekebalan dan hak istimewa tidak hanya diberikan kepada pejabat diplomatik sebagaimana diatur dalam Konvensi Wina 1961 tentang Hubungan Diplomatik, namun diberikan juga kepada perwakilan organisasi internasional, anggota Mahkamah Internasional, pegawai sipil internasional, angkatan bersenjata asing dan kapal publik negara asing. Untuk penerapan pemberian kekebalan dan hak istimewa kepada pejabat non-diplomatik pada kasus Gubernur Sutiyoso, Australia dinilai gagal dalam melindungi kepentingan perwakilan asing yang mendapatkan undangan resmi untuk kepentingan hubungan luar negeri.

Kata Kunci : kekebalan dan hak istimewa, pejabat non-diplomatik, Australia

**REGULATIONS FOR PROVISION OF IMMUNITIES AND PRIVILEGES  
TO NON-DIPLOMATIC REPRESENTATIVES ACCORDING TO  
INTERNATIONAL LAW**

***(Study in the Case of Immunity Violation Against Governor Sutowo by  
Australia on 2007)***

**ABSTRACT**

*The non-diplomatic representative has the right to diplomatic immunity and privilege to ensure the efficient implementation on their duties. On May 29, 2007 in Sydney, Governor Sutowo was on a working visitation related to the signing of a Memorandum of Understanding (MoU) to reactivate the sister province cooperation between the Special Region of Capital City Jakarta and Sydney. Sutowo was approached by the Australian Federal Police (AFP) and asked to be a witness because he was considered to know and involved in the case of Balibo Five. Sutowo refused that treatment with the reason he was entitled special immunity from criminal jurisdiction of the receiving state.*

*The aims of this research are to understand the regulation of regarding the granting of immunities and privileges to non-diplomatic representative according to international law and to know and analyze the application of granting immunities and privileges to non-diplomatic representative in the case of the violation of immunity against the Governor Sutowo in Australia for involvement in incident of Balibo Five 1975. The approach method on this research is normative juridical. All data of this research is taken from secondary data with data collection method is based on a literature study that served systematically and had been analyzed by qualitative normative method.*

*The result of this research showing that the regulation of immunity and privilege for non-diplomatic representative can be found inter alia in the New York Convention 1969 on Special Mission. Immunities and privileges are not only granted to diplomatic agent as regulated in the Vienna Convention 1961 on Diplomatic Relations, but are also granted to representatives of international organizations, members of the International Court of Justice, international civil servants, foreign armed forces and foreign public ships. The application of granting immunities and privileges to non-diplomatic representative in the case of Governor Sutowo, Australia was deemed to have failed in terms of protecting the interests of foreign representatives who received special invitations for the benefit of foreign relations.*

**Keywords :** *immunity and privileges, non-diplomatic representative, Australia*